

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARVIN JOHNSON,)	
)	
Plaintiff(s),)	No. C06-4217 MMC (BZ)
)	
v.)	ORDER GRANTING IN PART
)	PLAINTIFF'S MOTION TO MODIFY
CITY AND COUNTY OF SAN)	PRETRIAL PREPARATION ORDER
FRANCISCO, et al.,)	
)	
Defendant(s).)	
_____)	

By Order dated May 25, 2007, the Honorable Maxine M. Chesney referred to me plaintiff's motions to modify the Court's pretrial preparation order and to shorten time thereon. In my May 31, 2007 Briefing Order, I granted to motion to shorten time and directed the parties to brief the motion to modify. The motion having been fully briefed, I conclude that no hearing is necessary to resolve it. For the reasons discussed, plaintiff's motion is **GRANTED** in part.

By his motion, plaintiff seeks to modify the Court's Pretrial Preparation Order [Docket No. 11] to extend the Non-

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1 expert discovery cutoff date from May 18 to July 13.¹
2 Plaintiff asserts that the extension is required to allow him
3 to conduct discovery relating to the claims and defenses of
4 newly-added defendants China Basin Ballpark Company and the
5 San Francisco Giants. The new defendants were added in an
6 amended complaint approved by Order dated May 8, 2007. The
7 amended complaint was based in large part on discovery
8 received from the original defendants on April 2. According
9 to plaintiff, the discovery indicated that the original
10 defendants and the new defendants may have acted jointly on
11 the night of the incident, possibly rendering the new
12 defendants liable under 42 U.S.C. section 1983.

13 Under the circumstances, I conclude that the Non-expert
14 discovery date should be extended to allow for some
15 additional, limited discovery. Plaintiff is correct that
16 Federal Rule of Civil Procedure 26 establishes a party's right
17 to discover non-privileged matters relevant to the claims or
18 defenses of another party. New defendants have filed an
19 answer to the amended complaint that denies multiple
20 allegations and includes twenty-three affirmative defenses.
21 Plaintiff should have some opportunity to take discovery
22 relating to new defendants' answer.

23 At the same time, plaintiff cannot be given an unlimited
24 opportunity to conduct discovery that he could have and should
25 have conducted prior to the addition of the new defendants.
26 Moreover, defendants request that if I extend discovery, other

27 ¹ July 13 is also the date set to cut off expert
28 discovery.

1 pre-trial dates be extended. In fairness, a slight adjustment
2 to some of the deadlines is appropriate.

3 For the foregoing reasons, plaintiff's motion is **GRANTED**
4 in part as follows:

5 1. The Non-expert discovery cut-off date is extended to
6 July 31, 2007;²

7 2. As to the new defendants, plaintiff may proceed with
8 discovery relating to the claims and defenses contained in the
9 new defendants' answer;

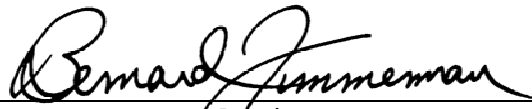
10 3. As to the original defendants, plaintiff's discovery
11 will be limited to those matters relevant to plaintiff's
12 allegation that they and the new defendants acted jointly so
13 as to render the new defendants liable under 42 U.S.C. section
14 1983;

15 4. Dispositive motions will be filed no later than
16 August 10, 2007, and shall be noticed for hearing 35 days
17 thereafter;

18 5. Lead trial counsel will meet and confer pursuant to
19 Civil L.R. 16-10(b)(5) no later than September 17, 2007.

20 All other dates remain as ordered by Judge Chesney in her
21 Pretrial Preparation Order dated October 23, 2006.

22 Dated: June 14, 2007

23 

24 Bernard Zimmerman
United States Magistrate Judge

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26

27 _____
28 ² July 13, proposed by plaintiff, is too short an
extension given that the extension is granted June 14.